

DEPARTMENT OF SOCIAL SERVICES

744 P Street, Sacramento, California 95814



November 21, 2001

ALL COUNTY LETTER NO. 01-81

TO: ALL COUNTY WELFARE DIRECTORS
ALL CalWORKs PROGRAM SPECIALISTS
ALL FOOD STAMP COORDINATORS
ALL MEDI-CAL PROGRAM SPECIALISTS

REASON FOR THIS TRANSMITTAL

- ☐ State Law Change
- ☐ Federal Law or Regulation Change
- ☐ Court Order
- ☒ Clarification Requested by One or More Counties
- ☐ Initiated by CDSS

SUBJECT: CHILD CITIZENSHIP ACT OF 2000 AND CalWORKs AND FOOD
STAMP ELIGIBILITY

The purpose of this notice is to provide information on how the Child Citizenship Act of 2000 (see attached) impacts eligibility for the CalWORKs and Food Stamp programs. Under this Act, a child born outside of the United States automatically becomes a citizen of the United States when all of the following conditions have been fulfilled:

- At least one parent of the child is a citizen of the United States, whether by birth or naturalization,
- the child is under the age of eighteen years,
- the child is residing in the United States in the legal and physical custody of the citizen parent and the child entered the United States pursuant to a lawful admission for permanent residence (admission in any immigrant classification will satisfy the requirement that the applicant be admitted to the United States as a lawful permanent resident),
- in the case of an adopted child, that child is under the age of sixteen and has resided in the legal and physical custody of the citizen parent(s) for at least two years (sibling children adopted by the same parent(s) have until the age of 18).

Prior to the Child Citizenship Act of 2000, children born outside the United States that immigrated with their parents had to adjust their noncitizen status on their own. Until these children adjusted their status they were considered noncitizens and had to provide acceptable documentation to establish their citizenship status, as required in MPP 42-433.3 for CalWORKs and MPP 63-300.51 (b)(c) and 63-405.3 for Food Stamps. The Child Citizenship Act of 2000 eventually will provide these children with a Certificate of Citizenship. However, currently not all of these children have the Certificate of Citizenship. In order to determine the child's citizenship status, the county must verify all of the following:

- The citizenship status of at least one parent,
- the age of the child,
- the child entered the United States pursuant to a lawful admission for permanent residence (Admission in any immigrant classification will satisfy the requirement that the applicant be admitted to the United States as a lawful permanent resident),
- the legal relationship of the child to the parent and
- in the case of adopted children, the child is under the age of sixteen, has resided in the legal and physical custody of the citizen parent(s) for at least two years (sibling children adopted by the same parent(s) have until the age of 18).

By verifying the above requirements, through either INS documentation or other information as indicated at MPP 42-433.2 and MPP 42-433.3 and MPP 63-300.51(b)(c) and establishing the age of the child and the family relationship, the citizenship status of the child can be determined.

The Child Citizenship Act of 2000 became effective February 27, 2001. Any applicant that was denied aid but would have been otherwise eligible, based upon the above criteria, should be reevaluated and if determined eligible should be granted benefits retroactively to February 27, 2001. Counties are to complete the process of retroactive eligibility by March 1, 2002.

In order to maximize federal funding when retroactive eligibility is determined, counties are reminded to ensure that aid codes and assistance claims are also retroactively adjusted. Fiscal claiming instructions will be issued in a County Fiscal Letter.

If you have any questions regarding this notice, please call Terry Mallin of the CalWORKs Eligibility Bureau at (916) 653-8395. For questions regarding Food Stamps please call Sandra Pierce at (916) 653-5208. For Medi-Cal questions please call John Zapata at (916) 657-0725.

Sincerely,

*Original Signed by
Bruce Wagstaff on 11/21/01*

BRUCE WAGSTAFF
Deputy Director
Welfare to Work Division

Attachment

c: CWDA
CSAC

*One Hundred Sixth Congress
of the
United States of America
AT THE SECOND SESSION*

Begun and held at the City of Washington on Monday,
the twenty-fourth day of January, two thousand
An Act

To amend the Immigration and Nationality Act to modify the provisions governing acquisition of citizenship by children born outside of the United States, and for other purposes.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the 'Child Citizenship Act of 2000'.

TITLE I--CITIZENSHIP FOR CERTAIN CHILDREN BORN OUTSIDE THE UNITED STATES

SEC. 101. AUTOMATIC ACQUISITION OF CITIZENSHIP FOR CERTAIN CHILDREN BORN OUTSIDE THE UNITED STATES.

(a) IN GENERAL- Section 320 of the Immigration and Nationality Act (8 U.S.C. 1431) is amended to read as follows:

'children born outside the united states and residing permanently in the united states; conditions under which citizenship automatically acquired

'SEC. 320. (a) A child born outside of the United States automatically becomes a citizen of the United States when all of the following conditions have been fulfilled:

- '(1) At least one parent of the child is a citizen of the United States, whether by birth or naturalization.
- '(2) The child is under the age of eighteen years.
- '(3) The child is residing in the United States in the legal and physical custody of the citizen parent pursuant to a lawful admission for permanent residence.

'(b) Subsection (a) shall apply to a child adopted by a United States citizen parent if the child satisfies the requirements applicable to adopted children under section 101(b)(1).'

(b) CLERICAL AMENDMENT- The table of sections of such Act is amended by striking the item relating to section 320 and inserting the following:

'Sec. 320. Children born outside the United States and residing permanently in the United States; conditions under which citizenship automatically acquired.'

SEC. 102. ACQUISITION OF CERTIFICATE OF CITIZENSHIP FOR CERTAIN CHILDREN BORN OUTSIDE THE UNITED STATES.

(a) IN GENERAL- Section 322 of the Immigration and Nationality Act (8 U.S.C. 1433) is amended to read as follows:

'children born and residing outside the united states; conditions for acquiring certificate of citizenship

'SEC. 322. (a) A parent who is a citizen of the United States may apply for naturalization on behalf of a child born outside of the United States who has not acquired citizenship automatically under section 320. The Attorney General shall issue a certificate of citizenship to such parent upon proof, to the satisfaction of the Attorney General, that the following conditions have been fulfilled:

- '(1) At least one parent is a citizen of the United States, whether by birth or naturalization.
- '(2) The United States citizen parent--

'(A) has been physically present in the United States or its outlying possessions for a period or periods totaling not less than five years, at least two of which were after attaining the age of fourteen years; or

'(B) has a citizen parent who has been physically present in the United States or its outlying possessions for a period or periods totaling not less than five years, at least two of which were after attaining the age of fourteen years.

'(3) The child is under the age of eighteen years.

'(4) The child is residing outside of the United States in the legal and physical custody of the citizen parent, is temporarily present in the United States pursuant to a lawful admission, and is maintaining such lawful status.

'(b) Upon approval of the application (which may be filed from abroad) and, except as provided in the last sentence of section 337(a), upon taking and subscribing before an officer of the Service within the United States to the oath of allegiance required by this Act of an applicant for naturalization, the child shall become a citizen of the United States and shall be furnished by the Attorney General with a certificate of citizenship.

'(c) Subsections (a) and (b) shall apply to a child adopted by a United States citizen parent if the child satisfies the requirements applicable to adopted children under section 101(b)(1).'

(b) CLERICAL AMENDMENT- The table of sections of such Act is amended by striking the item relating to section 322 and inserting the following:

'Sec. 322. Children born and residing outside the United States; conditions for acquiring certificate of citizenship.'

SEC. 103. CONFORMING AMENDMENT.

(a) IN GENERAL- Section 321 of the Immigration and Nationality Act (8 U.S.C. 1432) is repealed.

(b) CLERICAL AMENDMENT- The table of sections of such Act is amended by striking the item relating to section 321.

SEC. 104. EFFECTIVE DATE.

The amendments made by this title shall take effect 120 days after the date of the enactment of this Act and shall apply to individuals who satisfy the requirements of section 320 or 322 of the Immigration and Nationality Act, as in effect on such effective date.

TITLE II--PROTECTIONS FOR CERTAIN ALIENS VOTING BASED ON REASONABLE BELIEF OF CITIZENSHIP

SEC. 201. PROTECTIONS FROM FINDING OF BAD MORAL CHARACTER, REMOVAL FROM THE UNITED STATES, AND CRIMINAL PENALTIES.

(a) PROTECTION FROM BEING CONSIDERED NOT OF GOOD MORAL CHARACTER-

(1) IN GENERAL- Section 101(f) of the Immigration and Nationality Act (8 U.S.C. 1101(f)) is amended by adding at the end the following:

'In the case of an alien who makes a false statement or claim of citizenship, or who registers to vote or votes in a Federal, State, or local election (including an initiative, recall, or referendum) in violation of a lawful restriction of such registration or voting to citizens, if each natural parent of the alien (or, in the case of an adopted alien, each adoptive parent of the alien) is or was a citizen (whether by birth or naturalization), the alien permanently resided in the United States prior to attaining the age of 16, and the alien reasonably believed at the time of such statement, claim, or violation that he or she was a citizen, no finding that the alien is, or was, not of good moral character may be made based on it.'

(2) EFFECTIVE DATE- The amendment made by paragraph (1) shall be effective as if included in the enactment of the Illegal Immigration Reform and Immigrant Responsibility Act of 1996 (Public Law 104-208; 110 Stat. 3009-546) and shall apply to individuals having an application for a benefit under the Immigration and Nationality Act pending on or after September 30, 1996.

(b) PROTECTION FROM BEING CONSIDERED INADMISSIBLE-

(1) UNLAWFUL VOTING- Section 212(a)(10)(D) of the Immigration and Nationality Act (8 U.S.C. 1182(a)(10)(D)) is amended to read as follows:

(D) UNLAWFUL VOTERS-

(i) IN GENERAL- Any alien who has voted in violation of any Federal, State, or local constitutional provision, statute, ordinance, or regulation is inadmissible.

(ii) EXCEPTION- In the case of an alien who voted in a Federal, State, or local election (including an initiative, recall, or referendum) in violation of a lawful restriction of voting to citizens, if each natural parent of the alien (or, in the case of an adopted alien, each adoptive parent of the alien) is or was a citizen (whether by birth or naturalization), the alien permanently resided in the United States prior to attaining the age of 16, and the alien reasonably believed at the time of such violation that he or she was a citizen, the alien shall not be considered to be inadmissible under any provision of this subsection based on such violation.'

(2) FALSELY CLAIMING CITIZENSHIP - Section 212(a)(6)(C)(ii) of the Immigration and Nationality Act (8 U.S.C. 1182(a)(6)(C)(ii)) is amended to read as follows:

(ii) FALSELY CLAIMING CITIZENSHIP -

(I) IN GENERAL- Any alien who falsely represents, or has falsely represented, himself or herself to be a citizen of the United States for any purpose or benefit under this Act (including section 274A) or any other Federal or State law is inadmissible.

(II) EXCEPTION- In the case of an alien making a representation described in subclause (I), if each natural parent of the alien (or, in the case of an adopted alien, each adoptive parent of the alien) is or was a citizen (whether by birth or naturalization), the alien permanently resided in the United States prior to attaining the age of 16, and the alien reasonably believed at the time of making such representation that he or she was a citizen, the alien shall not be considered to be inadmissible under any provision of this subsection based on such representation.'

(3) EFFECTIVE DATES- The amendment made by paragraph (1) shall be effective as if included in the enactment of section 347 of the Illegal Immigration Reform and Immigrant Responsibility Act of 1996 (Public Law 104-208; 110 Stat. 3009-638) and shall apply to voting occurring before, on, or after September 30, 1996. The amendment made by paragraph (2) shall be effective as if included in the enactment of section 344 of the Illegal Immigration Reform and Immigrant Responsibility Act of 1996 (Public Law 104-208; 110 Stat. 3009-637) and shall apply to representations made on or after September 30, 1996. Such amendments shall apply to individuals in proceedings under the Immigration and Nationality Act on or after September 30, 1996.

(c) PROTECTION FROM BEING CONSIDERED DEPORTABLE-

(1) UNLAWFUL VOTING- Section 237(a)(6) of the Immigration and Nationality Act (8 U.S.C. 1227(a)(6)) is amended to read as follows:

(6) UNLAWFUL VOTERS-

(A) IN GENERAL- Any alien who has voted in violation of any Federal, State, or local constitutional provision, statute, ordinance, or regulation is deportable.

(B) EXCEPTION- In the case of an alien who voted in a Federal, State, or local election (including an initiative, recall, or referendum) in violation of a lawful restriction of voting to citizens, if each natural parent of the alien (or, in the case of an adopted alien, each adoptive parent of the alien) is or was a citizen (whether by birth or naturalization), the alien permanently resided in the United States prior to attaining the age of 16, and the alien reasonably believed at the time of such violation that he or she was a citizen, the alien shall not be considered to be deportable under any provision of this subsection based on such violation.'

(2) FALSELY CLAIMING CITIZENSHIP - Section 237(a)(3)(D) of the Immigration and Nationality Act (8 U.S.C. 1227(a)(3)(D)) is amended to read as follows:

(D) FALSELY CLAIMING CITIZENSHIP -

(i) IN GENERAL- Any alien who falsely represents, or has falsely represented, himself to be a citizen of the United States for any purpose or benefit under this Act (including section 274A) or any Federal or State law is deportable.

(ii) EXCEPTION- In the case of an alien making a representation described in clause (i), if each natural parent of the alien (or, in the case of an adopted alien, each

adoptive parent of the alien) is or was a citizen (whether by birth or naturalization), the alien permanently resided in the United States prior to attaining the age of 16, and the alien reasonably believed at the time of making such representation that he or she was a citizen, the alien shall not be considered to be deportable under any provision of this subsection based on such representation.'

(3) EFFECTIVE DATES- The amendment made by paragraph (1) shall be effective as if included in the enactment of section 347 of the Illegal Immigration Reform and Immigrant Responsibility Act of 1996 (Public Law 104-208; 110 Stat. 3009-638) and shall apply to voting occurring before, on, or after September 30, 1996. The amendment made by paragraph (2) shall be effective as if included in the enactment of section 344 of the Illegal Immigration Reform and Immigrant Responsibility Act of 1996 (Public Law 104-208; 110 Stat. 3009-637) and shall apply to representations made on or after September 30, 1996. Such amendments shall apply to individuals in proceedings under the Immigration and Nationality Act on or after September 30, 1996.

(d) PROTECTION FROM CRIMINAL PENALTIES-

(1) CRIMINAL PENALTY FOR VOTING BY ALIENS IN FEDERAL ELECTION- Section 611 of title 18, United States Code, is amended by adding at the end the following:

'(c) Subsection (a) does not apply to an alien if--

'(1) each natural parent of the alien (or, in the case of an adopted alien, each adoptive parent of the alien) is or was a citizen (whether by birth or naturalization);

'(2) the alien permanently resided in the United States prior to attaining the age of 16; and

'(3) the alien reasonably believed at the time of voting in violation of such subsection that he or she was a citizen of the United States.'

(2) CRIMINAL PENALTY FOR FALSE CLAIM TO CITIZENSHIP - Section 1015 of title 18, United States Code, is amended by adding at the end the following:

'Subsection (f) does not apply to an alien if each natural parent of the alien (or, in the case of an adopted alien, each adoptive parent of the alien) is or was a citizen (whether by birth or naturalization), the alien permanently resided in the United States prior to attaining the age of 16, and the alien reasonably believed at the time of making the false statement or claim that he or she was a citizen of the United States.'

(3) EFFECTIVE DATES- The amendment made by paragraph (1) shall be effective as if included in the enactment of section 216 of the Illegal Immigration Reform and Immigrant Responsibility Act of 1996 (Public Law 104-208; 110 Stat. 3009-572). The amendment made by paragraph (2) shall be effective as if included in the enactment of section 215 of the Illegal Immigration Reform and Immigrant Responsibility Act of 1996 (Public Law 104-208; 110 Stat. 3009-572). The amendments made by paragraphs (1) and (2) shall apply to an alien prosecuted on or after September 30, 1996, except in the case of an alien whose criminal proceeding (including judicial review thereof) has been finally concluded before the date of the enactment of this Act .